

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE COMPLAINT FILED) SECOND ORDER FOR AND
BY PATSY ALLYN, PEEVER, SOUTH DAKOTA,) NOTICE OF HEARING
AGAINST OTTER TAIL POWER COMPANY)
REGARDING BILLING AND TREE DAMAGE) CE02-001**

On April 1, 2002, the Public Utilities Commission (Commission) received a complaint filed by Patsy Allyn, Peever, South Dakota (Complainant), against Otter Tail Power Company (Otter Tail) regarding billing and tree damage.

On April 2, 2002, the complaint was faxed to Otter Tail. Pursuant to ARSD 20:10:01:09, Otter Tail was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 22, 2002. On April 22, 2002, the Commission received an answer from Otter Tail. On April 26, 2002, the Commission received a response from Complainant. On April 30, 2002, the Commission received a Stipulated Agreement from Otter Tail. On May 2, 2002, the Commission received a Motion to Continue Hearing to Allow Meter Testing Pursuant to Tariff and for an Order Requiring Complainant to Remove a Lock from Respondent's Meter Socket from Otter Tail. On May 3, 2002, the Commission received a Stipulated Agreement from Complainant. On August 12, 2002, the Commission received a Report on Electric Meter Test from Martin C. Bettmann, Staff Engineer, South Dakota Public Utilities Commission.

On May 9, 2002, at its regularly scheduled meeting, the Commission considered Otter Tail's motion. The Commission voted to grant Otter Tail's motion to continue further proceedings in the matter pending testing of its meter pursuant to its tariff and to allow Otter Tail access to its meter.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A, specifically 49-34A-2, 49-34A-2.1, 49-34A-3, 49-34A-4, 49-34A-9, 49-34A-10, 49-34A-26, 49-34A-27, 49-34A-39, 49-34A-40, and 49-34A-58.

A hearing shall be held on September 5, 2002, in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota, at 10:00 A.M. (or as soon after 10:00 am as the preceding hearing in Docket 02-025 concludes). All persons testifying will be subject to cross-examination by the parties.

In her complaint, Complainant alleges that Otter Tail committed the following acts, errors, practices or omissions:

1. Incorrectly billed for electric service provided and/or charged excessive amounts for electric service.
2. Failed to provide "copies of all bills and payments" to enable Complainant and Otter Tail to resolve the issues between them.
3. Failed to post payments Complainant paid on her account.
4. Threatened to bring an NSF complaint against Complainant based on Complainant's stopping payment on a check issued and delivered to Otter Tail as payment for services.

5. Improperly trimmed Complainant's tree and placed the resulting tree cuttings on boards in her yard that she wished to use.
6. Changed Complainant's billing rate from Otter Tail's RDC rate to its standard rate without Complainant's knowledge.

The issues at the hearing are: (i) whether, and to what extent, any of these alleged acts, errors or omissions occurred, (ii) to the extent that any of them did occur, whether Otter Tail thereby committed one or more unlawful or unreasonable acts, rates, practices or omissions and (iii) if so, what relief is appropriate.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether Otter Tail committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether Otter Tail committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 22nd day of August, 2002.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

ROBERT K. SAHR, Commissioner

